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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re the Marriage of ENRIQUE E. and  
DARLENE E. CRUZ.

ENRIQUE E. CRUZ,

Respondent,

v.

DARLENE E. CRUZ,

Appellant.

D039264

(Super. Ct. No. DN80815)

ORDER MODIFYING OPINION  
AND DENYING REHEARING  
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on January 15, 2003, be modified as follows:

1. On page 12, the second full paragraph, the first sentence, between the words "First" and "Darlene" insert the words "we note" so the sentence reads:

First, we note Darlene relies on inadmissible or incompetent evidence purporting to show that A did not want to see Enrique; that Kammerman did not believe conjoint therapy was presently appropriate; and that conjoint therapy would be detrimental to A.

2. On page 13, the first full paragraph, the first sentence beginning "In any event" is deleted and the following sentence is inserted in its place:

However, we do not base our opinion on the evidence's inadmissibility because even assuming the evidence of A.'s desires and Kammerman's opinions was admissible, the court could have properly rejected such evidence in favor of contrary evidence and contrary reasonable inferences arising from other evidence.

3. On page 13, the first full paragraph, following the first parenthetical set of citations ending with the words "188 Cal.App.3d at p. 1369," add outside the closing parenthesis as footnote 8 the following footnote, which will require renumbering of all subsequent footnotes:

Since Enrique did not file a respondent's brief, the admissibility of the evidence was not at issue in the appellate briefing of this case.

4. On page 14, the first full paragraph, the word "13" is changed to "3" so the sentence reads:

Accordingly, the court acted within its discretion in rendering the December 3 order.

There is no change in the judgment.

Appellant's petition for rehearing is denied.

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KREMER, P. J.